

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BOARD OF TRUSTEES OF THE
INSURANCE, ANNUITY, SCHOLARSHIP,
AND APPRENTICESHIP TRAINING FUNDS
OF SHEETMETAL WORKERS'
INTERNATIONAL ASSOCIATION, LOCAL
UNION NO. 137,

MEMORANDUM AND ORDER

Case No. 09-CV-00465 (FB) (SMG)

Plaintiffs,

-against-

MIDTOWN NEON SIGN CORP.,

Defendant.

X

Appearances:

For the Plaintiff:

GILLIAN COSTELLO, ESQ.
Spivak & Lipton LLP
1700 Broadway
New York, NY 10019

BLOCK, Senior District Judge:

On March 10, 2010, Magistrate Judge Gold issued a Report and Recommendation ("R&R") recommending that a default judgment be entered against defendant in the amount of \$16,875.51 in unpaid contributions, \$3,375.10 in liquidated damages, and \$3,590 in attorney's fees and costs. *See* R&R at 5. The R&R also recommended that plaintiffs be awarded interest on the \$16,875.51 in unpaid contributions, calculated at the rate of 10 percent per annum, beginning February 15, 2009. *See id.* The R&R stated that failure to object within fourteen days would preclude appellate review. *See id.* Attorney for plaintiffs mailed a copy of the R&R to defendant on March 11, 2010; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are

no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

Brooklyn, New York
April 20, 2010

FREDERIC BLOCK
Senior United States District Judge